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26 Attorneys for Defendants
27 MCKESSON TECHNOLOGIES INC. and
28 MCKESSON CORPORATION

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 OAKLAND DIVISION

20 TRUE HEALTH CHIROPRACTIC, INC., and
21 MCLAUGHLIN CHIROPRACTIC
22 ASSOCIATES, INC., individually and as the
23 representatives of a class of similarly-situated
24 persons,

Case No. 4:13-cv-02219-HSG

**DEFENDANTS' ADMINISTRATIVE
MOTION FOR LEAVE TO FILE
PHONE CARRIER DECLARATIONS**

Trial: October 18, 2021
Time: 8:30 a.m.
Courtroom: 2, 4th Floor
Judge: Haywood S. Gilliam, Jr.

22 Plaintiffs,

23 v.

24 MCKESSON CORPORATION,
25 MCKESSON TECHNOLOGIES INC.,
and DOES 1-10,

26 Defendants.

1 Pursuant to Civil Local Rule 7-11, Defendants McKesson Technologies Inc. and
 2 McKesson Corporation (collectively, “Defendants”) move the Court for leave to file the
 3 Declaration of Lisa Likely on behalf of AT&T Corporation (“AT&T Declaration”) and the
 4 Declaration of Jack Hansen on behalf of Frontier Communications (“Frontier Declaration”).

5 The Court ordered Plaintiffs’ counsel to “promptly file any additional declarations or
 6 equivalent materials it receives from the telephone carriers on a rolling basis.” (ECF No. 457
 7 at 1:19-20.) Last week, AT&T and Frontier, who together purportedly serviced 42% of the class
 8 during the class period, provided declarations attesting to their inability to determine whether a
 9 subscriber received faxes via online fax services or on a stand-alone fax machine. (Declaration of
 10 Bonnie Lau in Support of Defendants’ Administrative Motion (“Lau Decl.”) ¶¶ 2-3, Exs. A-B.)
 11 The AT&T and Frontier Declarations relate directly to Plaintiffs’ attempt to prove how class
 12 members received the faxes at issue through the subpoena process and should therefore be filed
 13 with the Court.

14 Plaintiffs, however, have failed to file those two declarations with the Court. Defendants
 15 met and conferred with Plaintiffs to ask them to comply with the Court’s Order and file the
 16 AT&T and Frontier Declarations, but Plaintiffs’ counsel indicated that they believe these
 17 declarations fall outside of the Court’s Order. (Lau Decl. ¶¶ 4-5, Exs. C-D.) Even after
 18 Plaintiffs’ counsel acknowledged that the Frontier Declaration is responsive to Plaintiffs’
 19 subpoena, Plaintiffs have not confirmed that they will file that declaration with the Court.
 20 (Lau Decl. ¶ 6, Ex. E.) As a result, Defendants seek leave to file the AT&T and Frontier
 21 Declarations so that they are part of the record as the Court considers Plaintiffs’ offer of proof.

22 Dated: September 22, 2021

MORRISON & FOERSTER LLP

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By: /s/ Tiffany Cheung
 25 Tiffany Cheung

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Attorney for Defendants
 MCKESSON TECHNOLOGIES INC.
 and MCKESSON CORPORATION